

#### STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

#### DIVISION OF WATER RIGHTS

## License for Diversion and Use of Water

APPLICATION 3628A Page 1 of 4 PERMIT 2855

LICENSE 901A

THIS IS TO CERTIFY. That

John Neubauer and Greg Jennison P.O. Box 3579 Mammoth Lakes. CA 93546

have made proof as of July 17, 1990 (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the waters of an Unnamed Spring (AKA Spring No. 3) in Mono County

tributary to an Unnamed Stream thence Crooked Creek thence Owens River

for the purpose of Domestic, Irrigation and Fire Protection uses

under Permit 2855 of the Board and that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the Board and the permit terms; that the priority of this right dates from September 6, 1923 and that the amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed forty-one thousandths (0.041) cubic foot per second to be diverted from May 1 to August 15 of each year. The maximum amount diverted under this license shall not exceed 8.8 acre-feet per year.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

Spring No. 3 - South 84° 53' East 1,428 feet from NW corner of projected Section 6, T5S, R30E, MDB&M, being within NE% of NW% of said Section 6.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Domestic and fire protection uses at two residences and irrigation of 10 acres, all within  $N_2$  of SW4 of Section 31, T4S, R30E, MDB&M, as shown on map on file with State Water Resources Control Board.

Licensee shall install and maintain an in-line flow meter on the pipeline diverting water under this license at a location below the licensee's storage tank in order to accurately measure the total amount of water diverted from the spring. The flow meter shall be capable of measuring the instantaneous diversion rate and the cumulative amount diverted. Licensee shall maintain a record of meter readings for April 30, May 31, June 30, July 31, and August 15 of each year. Licensee shall submit these monthly readings with the triemnial report of licensee or whenever requested by the Division of Water Rights. Upon request, licensee shall allow Division of Water Right staff access to the diversion works and meter to verify diversion rate and quantity. After five years of monitoring of diversions pursuant to this term, licensee may request the Chief of the Division of Water Rights to evaluate the necessity to continue the measuring device requirement.

(0060062)

At a point convenient of access, facilities shall be provided and maintained to allow free use of water for domestic and stock purposes by the public. (0040065)

Licensee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated:

AUGUST 1 0 1996

STATE WATER RESOURCES CONTROL BOARD

Chief, Division of Water Rights

# STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

# **DIVISION OF WATER RIGHTS**

## **ORDER**

Application	3628	Permit	2855	License	901	
ADDITICALION	3020					

# ORDER DIVIDING LICENSE INTO SEPARATE INTERESTS AND ADDING NEW TERM AND CONDITION

#### WHEREAS:

- 1. License 901 was issued to Han Lof and was filed with the County Recorder of Mono County on May 12, 1930.
- 2. Licensee 901 was subsequently assigned to Greg Jennison, John Neubauer, William D. Vogel and Maureen Vogel on December 14, 1992, each having an undefined interest in the license.
- 3. On July 17, 1990, Division of Water Rights staff inspected the project and found that the place of use, purpose of use, points of diversion, and amount beneficially used required change, correction or reduction.
- 4. On July 9, 1991, the Board issued an order which: 1) changed the purpose of use to domestic, irrigation and fire protection, 2) corrected the descriptions of the points of diversion for Spring No. 2 and No. 3, 3) deleted Spring No. 1 from the license, and 4) reduced the amounts beneficially used under the license to 0.074 cfs and 7.1 acre-feet per annum. The season of diversion is May 1 to August 15 of each year. Division staff has determined the 7.1 acre-feet shown above, was an error and the actual annual amount determined during the 1990 field inspection was 15.9 acre-feet per annum.
- 5. Greg Jennison and John Neubauer divert water only from Spring No. 3 (point of diversion No. 3) and William D. Vogel and Maureen Vogel divert water only from Spring No. 2 (point of diversion No. 2) under this license. Therefore, Spring No. 2 and Spring No. 3 serve separately owned places of use and the beneficial use of water from each source has been identified by Division inspection. Sections 686 and 687, Title 23, California Code of Regulations states that separate applications are necessary for separate diversions and separately owned places of use.
- 6. On September 5, 1996, the State Water Resources Control Board received a complaint from Mr. James Miller against the licensees for License 901. Staff's report of investigation for this complaint recommends the division of interest in License 901 and the inclusion of a term requiring installation of in-line flow and monitoring of the amounts diverted by the licensees.

Application	3628	Permit	2855	License	901	
Page 2						

NOW, THEREFORE, IT IS ORDERED THAT LICENSE 901 BE REVOKED AND SEPARATE LICENSES BE ISSUED AS FOLLOWS, DIVIDING LICENSE 901 INTO SEPARATE INTERESTS AND ADDING SPECIAL LICENSE TERM:

I. License 901A

Application 3628A

1. Owner on Record:

John Neubauer and Greg Jennison P.O. Box 3579 Mammoth Lakes, CA 93546

2. Sources:

An Unnamed Spring (AKA Spring No. 3) in Mono County tributary to an Unnamed Stream thence Crooked Creek thence Owens River

3. Amount

0.041 cubic foot per second 8.8 acre-feet per annum total

4. Season:

May 1 to August 15 of each year

5. Purpose of Use:

Domestic, Irrigation and Fire Protection uses

6. Place of Use:

South 84°53' East 1,428 feet from NW corner of projected Section 6, T5S, R30E, MDB&M, being within NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 6.

7. Place of Use:

Domestic and fire protection uses at two residences and irrigation of 10 acres, all within N½ of SW¼ of Section 31, T4S, R30E, MDB&M, as shown on map on file with State Water Resources Control Board.

II. The following term is added to License 901A:

"Licensee shall install and maintain an in-line flow meter on the pipeline diverting water under this license at a location below the licensee's storage tank in order to accurately measure the total amount of water diverted from the spring. The flow meter shall be capable of measuring the instantaneous diversion rate and the cumulative amount diverted. Licensee shall maintain a record of meter readings for April 30, May 31, June 30, July 31, and August 15 of each year. Licensee shall submit these monthly readings with the triennial report of licensee or whenever requested by the Division of Water Rights. Upon request, licensee shall allow Division of Water Right staff access to the diversion works and meter to verify diversion rate and quantity. After five years of monitoring of diversions pursuant to this term, licensee may request the Chief of the Division of Water Rights to evaluate the necessity to continue the measuring device requirement."

Application 3628 Permit 2855 License 901 Page 3

#### III. License 901B

Application 3628B

1. Owner on Record:

William D. Vogel and Maureen Vogel 300 Paseo Tesoro Walnut, CA 91789

2. Sources:

An Unnamed Spring (AKA Spring No. 2) in Mono County tributary to an Unnamed Stream thence Crooked Creek thence Owens River

3. Amount:

0.033 cubic foot per second 7.1 acre-feet per annum total

4. Season:

May 1 to August 15 of each year

5. Purpose of Use:

Domestic, Irrigation and Fire Protection uses

6. Point of Diversion

North 21°01' West 785.49 feet from SE corner of projected Section 36, T4S, R29E, MDB&M, being within SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 36.

#### Place of Use:

Domestic and fire protection uses at four residences and grounds and irrigation of 2 acres, all within NW4 of SW4 of Section 31, T4S, R30E, MDB&M, as shown on map on file with State Water Resources Control Board.

IV. The following term is added to License 901B:

"License shall install and maintain an in-line flow meter on the pipeline diverting water under this license at a location within 20 feet below licensee's concrete cistern in order to accurately measure the total amount of water diverted from the spring. The flow meter shall be capable of measuring the instantaneous diversion rate and the cumulative amount diverted. Licensee shall maintain a record of meter readings for April 30, May 31, June 30, July 31, and August 15 of each year. Licensee shall submit these readings with the triennial report of licensee or whenever requested by the Division of Water Rights. Upon request, licensee shall allow Division of Water Right staff access to the diversion works and meter to verify diversion rate and quantity. After five years of monitoring of diversions pursuant to this term, licensee may request the Chief of the Division of Water Rights to evaluate the necessity to continue the measuring device requirement."

Dated: AUGUST 101998
Warry M Schueller, Chief
Division of Water Rights

# STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

## **DIVISION OF WATER RIGHTS**

#### **ORDER**

APPLICATION	3628	PERMIT	2855	LICENSE	901

ORDER ALLOWING CHANGE IN PURPOSE
OF USE, CORRECT THE PLACE OF USE,
REDUCE THE AMOUNT AND THE NUMBER OF
POINTS OF DIVERSION, AND AMEND THE LICENSE

#### WHEREAS:

- License 901 was issued to Han Lof and was filed with the County Recorder of Mono County on May 12, 1930.
- 2. License 901 was subsequently assigned to John Neubauer and Greg Jennison.
- 3. On July 17, 1990, the project was inspected by an engineer from the Board. The inspection revealed the amount should be reduced to 0.074 cubic foot per second, domestic and fire protection should be added to the purpose of use, the description of the place of use should be corrected and Spring No. 1 should be deleted as a source.
- 4. A petition for changes in purpose of use and correct the description of place of use has been filed with the State Water Resources Control Board and said Board has determined that good cause for such change has been shown.
- 5. The Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
- 6. The license condition pertaining to the Board's continuing authority should be replaced with the current version to conform with Section 780(a), Title 23 of the California Code of Regulations.

### NOW, THEREFORE, IT IS ORDERED THAT:

- The purposes of use under this license shall read as follows: Irrigation, Domestic, and Fire Protection
- 2. Correct the description of the place of use under this license to read as follows:
  From Spring No. 2: Irrigation of 2 acres of pasture and domestic use which include 4 homes with lawn and garden.
  From Spring No. 3: Irrigation of ten acres of lawn, trees and pasture and domestic use at one home.
  All of the above are within the NW% of SW% of Section 31, T4S, R30E, MDB&M, as shown on map on file with the State Water Resources Control Board.

- 3. The points of diversion under this license shall read as follows: Spring No. 2: North 21° 01' West, 785.49 feet from SE corner of Section 36, T4S, R29E, MDB&M, being within SE½ of SE½ of said Section 36, and Spring No. 3: South 84° 53' East 1,428 feet from SE corner of Section 36, T4S, R29E, MDB&M, being within NE½ of NE½ of Section 6, T5S, R30E, MDB&M.
- 4. The amount and season under this license shall be reduced and reads as follows:

  The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.074 cubic foot per second to be diverted from May 1 to August 15 of each year. The maximum amount diverted under this license shall not exceed 7.1 acre-feet per year.
- 5. The license condition pertaining to the Board's continuing authority is replaced with the following to conform with Section 780(a), Title 23 of the California Code of Regulations.

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: JULY

Jesse M. Diaz, Chief

Ø9 1991

Division of Water Quality

and Water Rights

FORM L-1929

STORE STORES

# STATE OF CALIFORNIA DEPARTMENT OF PUBLIC WORKS DIVISION OF WATER RESOURCES

Bosh

License for Diversion and Use of Water

Notice of Assignment (Over)

ASSIGNMENT MADE

LICENSE 901

PERMIT 2855

APPLICATION 3628

This Is To Certify, That

ASSIGNMENT TO Chas. a Partide

ha made proof to the satisfaction of the Division

of Water Resources of California of a right to the use of the waters of three unnamed springs in

#### Mone County

tributary of Owens River Watershed

for the purpose of irrigation use

under Permit 2855 of the Division of Water Resources and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources and the terms of the said permit; that the priority of the right herein confirmed dates from September 6, 1923:

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed twenty-four hundredths (0.24) cubic foot per second from about May 1st to about August 15th of each

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The points of diversion of such water are located. (1) South thirteen degrees, forty minutes West, (8. 13° 40' W.) one thousand six hundred (1600) feet; (2) North twenty-one degrees one minute West (N. 21° 01' W.) seven hundred eighty-five and forty nine hundredths (785.49) feet; (3) South eighty-four degrees fifty-three minutes East (8. 84° 53' E.) one thousand four hundred twenty-eight (1428) feet from the Southeast corner of Section 36, T 4 S, R 29 E, M.D.B. & M., being within (1) SW; of NE; Section 6, T 5 S, R 30 E, M.D.B. & M., (2) SE; of SE; Section 36, T 4 S, R 29 E, M.D.B. & M. and (3) ME; of ME; Section 6, T 5 S, R 30 E, M.D.B. & M.

A description of the lands or the place where such water is put to beneficial use is as follows:

71 agree within Lot 1 of SW1 of Section 31, T 4 S, R 30 E, M.D.B. & M. 49 3/4 " Lot 2 of SW2 of Section 31, T 4 S, R 30 E, M.D.B. & M. 57 acres, total

At a point convenient of access, facilities shall be previded and maintained to allow free use of water for demestic and stock purposes by the public.

0040065

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:

conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:

Suc. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated but no longer; and every such permit to license shall include the enumeration of conditions therein appressed; provided, that if, at any time after the expiration of twenty years after the graining of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works buffer or contracted for the supplication of the state is desting to purchase and the state, city, city and county, municipal water district, irrigation and the works and property of the state shall have the right to purchase and electrominate in eminent domain proceedings. It is shall appear to the state water commission at any interest of licenses, or the heirs, successor or assigns of said permittee or licenses, has ceased to put said water to such useful or beneficial purpose for which the permit toe licenses, and the state of the state shall accept the water granted under said permit or licenses to the safellad to observe any of the terms and conditions in the permit or license, and characterial and open to further appropriation in accordance with the terms of this act, and the state of an experiment of the state of permittee or licenses, or the heirs, successors or assigns of said permittee or licenses, and the state of permittee or licenses, or the heirs, successors or assigns of said permittee or li



DIVISIONO

Witness my hand and the seal of the Department of Public Works of the State of California, this April , 19 30

EDWARD HYATT State Engineer

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